

**DRAFT**

## **HIPAA Consent and Authorization**

### **CONSENT** (in plain language)

Permitted/required for carrying out TPO (164.506)

Exception: psychotherapy notes (process notes which need authorization)

Allows use/disclosure by covered entity rather than by others

### Content requirements

Inform indiv. that PHI may be used/disclosed for TPO (164.506c)

Refer indiv. to cov. entity notice of privacy practices for PHI and state indiv. has right to review the notice before signing consent form

State that indiv. has right to restrict how PHI is used/disclosed, although covered entity does not have to agree. If covered entity agrees, restriction is binding.

State that indiv. has right to revoke consent in **writing**, except for actions already taken

Signed and dated by indiv.

## **AUTHORIZATIONS**

Allows use/disclosure of PHI for purposes other than TPO (164.506)

Written in specific terms

Required for use/disclosure of psychotherapy notes (process notes) for TPO (164.508a)

Exceptions:

Consent only may be used by person who created the psychotherapy (process) notes to carry out treatment, and for training programs (students, trainees etc.)

Authorization not needed for defending a legal action brought by indiv., provider oversight for compliance, uses/disclosures required by law, for coroners and medical examiners of decedents, to avert serious threat to health or safety, for workman's compensation

Required core elements:

Specific and meaningful description of information to be disclosed

Name/ID of person(s) authorized to use /disclose the PHI (Giver)

Name/ID of person(s) to whom cov. entity is authorized to make use/disclosure (Recipient)

Expiration date or event

Statement that indiv. has right to revoke authorization in writing and how to do it

Statement that info used/disclosed by authorization may be redisclosed by recipient and no longer PHI

Indiv. signature and date

If signed by personal representative, description of representative's authority to act for individual

Authorization requested by cov. entity for its own uses/disclosures

Required elements in addition to core elements above

Statement that cov. entity will not require authorization for TPO

Description of each purpose of the requested use/disclosure

State that indiv. may inspect/copy PHI to be used/disclosed and refuse to sign the authorization

State if cov. entity will receive remuneration from 3<sup>rd</sup> party for PHI

Copy of signed authorization given to indiv.

Authorizations requested by cov. entity for disclosures by others

Required elements in addition to core elements

Description of each purpose of the requested disclosures

Except for payment of a claim for specific benefits by health plan, cov. entity will not require authorization for T, P, enrollment in health plan or eligibility for benefits

State that indiv. may refuse to sign the authorization

Copy of signed authorization given to indiv.